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tual and should be governed by the New York law where no compensation act was in force. *Held*, the liability is quasi-contractual and is governed by the law of the State where the contract was being performed at the time of the death. *Radiator Co. v. Rogge* (N. J.), 92 Atl. 85.

The only other adjudicated case on this point, involving conflict of laws, holds that the liability is purely contractual, since no default of any kind is necessary for a cause of action to arise. *Pensabene v. Audiotore Co.*, 155 App. Div. 368, 140 N. Y. Supp. 266, 1134.

CRIMINAL LAW—CAPITAL OFFENSE—SEPARATION OF JURY.—During a trial on a capital charge, the jurors were permitted to sleep at a hotel, two in a room and behind locked doors, while the sheriff slept in the hall into which the rooms opened. *Held*, such separation is sufficient to invalidate the verdict. *State v. Walters* (La.), 66 South. 364.

While the law as to the effect of the separation of the jury in capital cases is conflicting, it is well settled both in this country and England that separation is not grounds for setting aside the verdict in trials of misdemeanors. *Beebe v. People*, 5 Hill (N. Y.) 32; *Prewitt v. State*, 65 Miss. 437, 4 South. 346; *Bowdoin v. State*, 113 Ga. 1150, 39 S. E. 478; *Rex v. Kinnear*, 2 Barn. & Ald. 462. And the present doctrine is the same, if no prejudice has resulted, where the accused is charged with a felony not punishable by death. *State v. Antoine*, 52 La. Ann. 488, 26 South. 1011; *Moss v. Commonwealth*, 107 Pa. St. 267. But the early rule was otherwise; and is still followed to some extent. *Commonwealth v. M'Caul*, 1 Va. Cas. 271; *Barnett v. State*, 50 Tex. Crim. App. 538, 99 S. W. 566. In capital cases the same general tendencies are manifested. The early rule regarded a separation as a reversible error; and such seems still to be the law in Louisiana. *McLean v. State*, 8 Mo. 153; *Woods v. State*, 43 Miss. 364; *State v. Moss*, 47 La. Ann. 1514, 18 South. 507; *Walters v. State*, *supra*. By statute, in one jurisdiction, separation has been made ground for a new trial, only when occurring after the jury has retired to deliberate. See *People v. Adams*, 143 Cal. 208, 76 Pac. 954, 101 Am. St. Rep. 92. Usually, however, the trial judge is regarded as having the power, at his discretion, to permit a separation prior to the submission of the case. *Stephens v. People*, 19 N. Y. 549; *State v. Williams*, 96 Minn. 351, 105 N. W. 265; *State v. Bates*, 87 S. C. 431, 69 S. E. 1075. *Contra*, *Wesley v. State*, 30 Tenn. 502. But in several States, statutes have been passed allowing such a power only when there is no objection to its exercise by either of the parties. See *State v. Smith*, 102 Iowa 656, 72 N. W. 279; also, *State v. Stockhammer*, 34 Wash. 262, 75 Pac. 810. It is now generally held that an improper separation will not justify a new trial, if the accused has not been prejudiced thereby; but the absence of prejudice must be affirmatively shown by the prosecution. *Gamble v. State*, 44 Fla. 429, 33 South. 471, 103 Am. St. Rep. 150, 60 L. R. A. 547, 1 Ann. Cas. 285; *Green v. State*, 59 Miss. 501; *State v. Cucuel*, 31 N. J. L. 249; *State v. Robinson*, 20 W. Va. 713; *Hempton v. State*, 111 Wis. 127, 86 N. W. 596. But if, during the separation, none of the jury is out of the custody or sight of an

officer, no presumption of prejudice will arise. *Jones v. State*, 152 Ind. 318, 53 N. E. 222; *Nabors v. State*, 120 Ala. 323, 25 South. 529; *King v. State*, 91 Tenn. 617, 20 S. W. 169.

In connection with the question of what constitutes a separation in fact, the lodging of a jury in hotel rooms has often come into question. It has been held that where the jurors have been placed in rooms opening into a common passage, the several doors being open, and attended by officers who have securely fastened the entrances to the passage, the strictest requirements of the law are satisfied. *State v. Devall*, 51 La. Ann. 497, 25 South. 384; *Kennedy v. Commonwealth*, 2 Va. Cas. 510; *Thompson v. Commonwealth*, 8 Gratt. (Va.) 637. And it is not necessary that the entrance to the passage way be locked. *Thompson v. Commonwealth*, *supra*. But if placed in locked rooms on different floors of the same hotel, there is a separation. *People v. Adams*, *supra*. So if there is no direct connection between the several rooms or that of the attending officer. *Hempton v. State*, *supra*. *Contra*, see *Commonwealth v. Manfredi*, 162 Pa. St. 144, 29 Atl. 404. But an open connection between the rooms containing the jurors has been regarded unnecessary, where an officer is present in each. See *State v. Robinson*, *supra*. And in one jurisdiction it seems that not only may the jurors be lodged in separate rooms not locked, but, while there, the presence of an officer may be dispensed with. See *Wright v. State*, 35 Ark. 631. The mistake of the officer, in the principal case, seems to have been in locking the doors leading from the several rooms into the common passage.

**DOWER—PROTECTION OF INCHOATE DOWER RIGHT BY INJUNCTION.**—A married man sold valuable oil and mineral lands without the joinder of his wife in the deed. While the husband was still living, the wife sought to enjoin the alienee from drilling for oil on the land, on the ground that she had a right to protect her dower right from waste. *Held*, the defendant will not be enjoined. *Rumsey v. Sullivan* (App. Div.), 150 N. Y. Supp. 287. See NOTES, p. 462.

**EXTRADITION—INTERSTATE EXTRADITION—HABEAS CORPUS.**—The plaintiff was held on a warrant for extradition in pursuance of a demand of the governor of a State from which it was alleged the plaintiff was a fugitive from justice. The indictment charged the prisoner with conspiracy in escaping from an insane asylum, a crime under the laws of the demanding State. The plaintiff applied to a Federal court for a writ of *habeas corpus* on the ground that if insane he could not be guilty of conspiracy. *Held*, the criminal responsibility of the prisoner is to be determined by the courts of the demanding State under the laws thereof, and such question may not be raised on *habeas corpus*. *Drew v. Thaw*, 35 Sup. Ct. 137.

The power of the United States courts to interfere in interstate extradition proceedings, when such power exists, should be exercised with the utmost caution and only in cases of urgency where the error is